**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION**

**CONTEMPT PETITION NO. 233 OF 2003**

Smt. Jayashree R. Vora & Ors. ...Petitioners

Versus

Office of the Special Recovery Officer, Abhuydaya Co-Op. Bank and others ...Respondents

.....

Mr. Vinod Sawji h/f Prafulla Shah, counsel for Petitioners

.....

**CORAM: B. H. MARLAPALLE, J.**

**DATED: 17TH FEBRUARY, 2005**

**P. C.:-**

1. Heard Mr. Vinod Sawji h/f Mr. Prafulla Shah, the learned counsel for the petitioners. It is submitted that in writ petition No. 5610 of 2002 this Court had passed an order on 7.10.2002 and directed that no precepitative action be taken against the petitioners for a period of one week from that day so as to enable him to approach the appellate Court for the relief of extension of time to deposit the amount payable to the Bank and inspite of this restraining order the Recovery Officer broke open the lock of the said shop and took its possession. As per the petitioners, this act on the part of the Recovery Officer is in breach of the

order passed by this Court, more so when he was made aware of the said order by letter dated 8.10.2002.

2. It is evident from the record that there is no proof of service of the said letter dated 8.10.2002 on the Recovery Officer nor is there any affidavit by any of the petitioners stating on oath that the said letter was handed over to the Recovery Officer on 8.10.2002 and he refused to accept it. In the absence of such prima facie evidence, it cannot be believed that the Recovery Officer was aware of the order passed by this Court on 7.10.2002 before he allegedly entered the shop and took over its possession. Hence, no case is made out to take cognizance for contempt.

3. The contempt petition is rejected summarily.